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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,240

11/20/2003

Lewis Michael Popplewell

IFF-56

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48080

7590

04/01/2008

INTERNATIONAL FLAVORS & FRAGRANCES INC.  
521 WEST 57TH ST  
NEW YORK, NY 10019

EXAMINER

YU, GINA C

ART UNIT

PAPER NUMBER

1617

MAIL DATE

DELIVERY MODE

04/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,240	<b>Applicant(s)</b> POPPLEWELL ET AL.	
	<b>Examiner</b> GINA C. YU	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 20, 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 4, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness et al. (US 6024943) in view of Bacon (US 5500138).**

Ness discloses that melamine formaldehyde precondensate as a preferred encapsulating polymer for particles containing perfume materials. See col. 6, lines 14 – 34. The reference teaches that ten or more perfumery materials are in a perfume. See col. 7, line 1 - col. 8, line 30. The solvents or diluents used with the perfumes include diethyl phthalate and isoparaffin, disclosed in col. 8, lines 27-41. the reference also teaches specific consumer products such as fabric detergent composition, conditioners, and personal washing products, into which the encapsulated perfume materials may be incorporated. See col. 9, line 10 – col. 14, line 44; Examples. See instant claim 13.

Although Ness does not specifically teach the amount of solvent or diluent based on the weight the weight of the capsule particle, differences in concentration generally will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” See In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In this case, since the reference teaches that choosing the right solvent affects the perfume uptake by the core polymer, the skilled artisan would have discovered an optimal weight amount of the solvent/diluent that would aid the liquid (perfume) absorption.

Ness does not disclose the ClogP value of the perfume materials used in the prior art invention.

Caswell discloses polyvinyl alcohol film encapsulating enduring fragrance materials for fabric softener. See abstract. The reference also teaches that it is preferred to have at least 7 different enduring perfume ingredients, meeting instant claim 10. Examples 3-8 show the amount of perfume materials added in the fabric softener compositions. See instant claim 13.

Bacon teaches in Table 1 the ClogP Table of the perfumes that are used in the perfumes of Seitz. The Bacon reference teaches that the example perfume composition of Enduring Perfume A comprises 65 % of perfume materials having Clog P of 4.0 or higher. See instant claim 2.

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the teachings of Ness by incorporating the perfume mixtures of Caswell, because these reference teach enduring perfume mixtures suitable for fabric softer compositions. The skilled artisan would have had a reasonable expectation of successfully producing a controlled-release fabric softener with enduring fragrance.

**Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness, Caswell, and Bacon as applied to claims 1, 2, 4 and 7-13 as above, and further in view of Birch et al. (US 6927195 B2).**

The combined references do not teach to double-coat the perfume particles.

Birch teaches particles suitable for inclusion in a dry laundry product, comprising a core of swellable material, containing perfume absorbed therein, the core being coated with water-soluble encapsulating material impervious to the perfume. See abstract. The coating is to prevent premature evaporation or dissipation from the particles of the loaded perfume until the coating is dissolved on contact with water in use, and also teaches using modified starches. See col. 9, lines 27-63.

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the encapsulated perfume particles by double coating the surface, as motivated by Birch, because the latter teaches that the double coating prevents premature evaporation or dissipation of the perfume from the particles until use. The skilled artisan would have had a reasonable expectation of successfully producing encapsulated particles with a longer shelf-life.

### ***Response to Arguments***

Applicant's arguments filed July 10, 2007 have been fully considered but they are not persuasive in part and moot in view of the new grounds of rejection in part.

#### Claim rejection under 35 U.S.C. § 112, first paragraph

The new matter rejection as indicated in the previous Office action dated September 20, 2007 is withdrawn as applicant's remarks are persuasive.

#### Claim rejection under 35 U.S.C. § 103(a), over Caswell in view of Bacon

Applicant asserts that neither Caswell nor Bacon teaches nor suggests a melamin-formaldehyde or acrylamide-acrylic acid copolymer as the encapsulating material. The argument is persuasive, and the rejection is withdrawn. A new rejection is made as discussed above.

#### Claim rejection under 35 U.S.C. § 103(a), over Caswell and Bacon further in view of Birch

Applicant asserts that a prima facie case of obviousness is not made because of the defect of the Caswell/Bacon rejection. The argument is moot, as the rejection is withdrawn and a new rejection is made as discussed above.

### ***Conclusion***

Claims 1, 2, 4-28 are pending.

Claims 14-28 are withdrawn from consideration.

Claims 1, 2, 4-13 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GINA C. YU whose telephone number is (571)272-8605.

Art Unit: 1617

The examiner can normally be reached on Monday through Friday, from 8:00AM until 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gina C. Yu/  
Primary Examiner, Art Unit 1617